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Senate Bill 50 (Substitute S-3 as passed by the Senate)
Sponsor: Senator Gilda Z. Jacobs
Committee: Health Policy

Date Completed: 5-7-03

RATIONALE

In recent years, health clubs have gained popularity as the importance of exercise to general health and fitness has been emphasized. These facilities cater to a wide range of people of all ages and fitness levels. While the physical activity engaged in at health clubs is generally beneficial to a person's health, overexertion or exercising improperly can lead to injury or emergency medical situations, such as heart attacks, that require immediate care.

According to the American Heart Association, about 250,000 Americans die each year of sudden cardiac arrest and 95% of cardiac arrest victims die before they reach the hospital. The Heart Association has identified four steps that can increase the chances that a victim will make it to the hospital alive. Each step makes up a link in the "chain of survival", which includes early access to medical care (calling 9-1-1); early cardiopulmonary resuscitation (CPR); early defibrillation; and early advanced medical care. Some people believe that, in order to be prepared for medical emergencies, health clubs should be required to implement an emergency services plan, have staff who are certified in first-aid and CPR training, and have an automated external defibrillator (AED) on-site.

CONTENT

The bill would create a new act to require that health clubs have on the premises at all times both an automated external defibrillator and at least one employee who was certified in first aid and CPR, and develop and implement emergency plans, or face civil penalties.

The bill would define "health club" as "an establishment that provides, as its primary purpose, services or facilities that are purported to assist patrons in physical exercise, in weight control, or in figure development, including, but not limited to, a fitness center, studio, salon, or club". A health club would not include a hotel or motel providing physical fitness equipment or activities, an organization solely offering training or facilities for an individual sport, or a weight reduction center.

Beginning one year after the bill's effective date, a health club's owner or operator would have to do all of the following:

- Have present on the premises, at all times during which the health club was open and its facilities and services were available for use, at least one employee who had satisfactorily completed a course or courses in basic first aid and basic CPR, taught by the American Red Cross, the American Heart Association, or an equivalent organization approved by the Department of Community Health.
- Have an AED available on the premises at all times during which the health club was open and its facilities and services were available for use.
- Develop and implement an emergency plan to address emergency services, when needed, during operational hours at the health club.

A violation of the bill would be a State civil infraction punishable by a maximum civil fine of \$250 for a first offense, \$500 for a second offense, or \$1,000 for a third or subsequent offense.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to the American Heart Association, the window of opportunity to save a cardiac arrest victim is about seven to 10 minutes, and a person's chance of survival decreases about 10% for every minute without defibrillation. Unless the "chain of survival" is followed, death likely will occur in a matter of minutes. Calling 9-1-1 provides an initial and immediate link to the emergency medical care system. Properly administering CPR can add a few minutes to the time available for survival because it can maintain blood flow to the heart and brain, even during cardiac arrest. Defibrillation is critical in treating cardiac arrest victims early because the electric shock stops the abnormal rhythm of the heart and allows a coordinated rhythm and normal pumping action to resume.

Being prepared to address an emergency situation can give a person or organization the tools necessary to respond properly in the event of a heart attack or other injury, in virtually any forum. In a health club, overexertion can be risky for people who are trying to become physically fit or even those who are already active and seemingly in good health. Indeed, in June 2000, a Huntington Woods man who was physically fit and appeared to be in good health collapsed and died at a health club. Reportedly, the health club did not have a plan for dealing with such emergencies and none of the staff was trained in CPR. By requiring that a health club have an emergency plan in place, as well as having an AED on the premises and employing staff who are trained in CPR, the bill would provide an increased opportunity to save the life of a health club patron who suffered from cardiac arrest.

Response: While it may seem like a good idea for a health club to be equipped to deal with medical emergencies, health clubs are not medical care facilities, but typically are business ventures that must turn a profit in order to remain viable. As such, they should not be legally subject to the proposed requirements. Rather, it should be left up to each individual club to determine what services it should provide in that market.

Indeed, it may not be economically feasible for every health club in the State to meet the bill's requirements. For instance, an AED reportedly costs about \$3,000 and many clubs, particularly smaller, independent operations, might not be able to afford one. Also, according to testimony before the Senate Committee on Health Policy by the vice-president of the Fitness USA chain of health clubs, while they might offer CPR training to club managers and some other staff, the clubs could not necessarily design work schedules so that at least one of those trained individuals was working at all times.

Opposing Argument

The bill could have liability implications for health clubs. The Good Samaritan law provides civil immunity for an individual who has no duty to act but who, in good faith, voluntarily renders emergency services to another individual using CPR or an AED. It is unclear, however, whether the bill's requirements would impose a duty to act upon health clubs and their personnel. If there were a duty to act, and a health club's employee did not provide care or improperly performed emergency response activity, the individual and the health club could be exposed to civil liability. In addition, even if a plan were followed properly, a health club presumably could be exposed to a claim that its emergency plan was insufficient. The bill should specify whether it would impose a duty to act and should include an immunity provision for health clubs and their staff who used the required training to react in an emergency situation.

Opposing Argument

Health clubs should not be singled out as locations in which emergency plans would have to be implemented and AEDs would have to be available. According to the American Heart Association's Internet website, its "Public Access to Defibrillation" (PAD) program advocates that many facilities, such as sports arenas, gated communities, office complexes, medical offices, and shopping malls, be equipped with AEDs. If health clubs were required to purchase and maintain AEDs, perhaps the same should be required of shopping malls and other facilities identified in the PAD program.

Response: Health clubs are in the business of enhancing personal health and fitness. In a sense, they are on the front-line

of health care and should be held to a higher standard than businesses like shopping malls.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The potential fiscal impact of this bill on State government is indeterminate. Violators would be required to pay civil fines, ranging from \$250 to \$1,000, which would be deposited into the State treasury. No data are available to estimate how many violations would occur or how much revenue would be generated each year under this bill.

The bill would have no fiscal impact on local government.

Fiscal Analyst: Dana Patterson

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.